#### **CITY OF MILPITAS**

Summary of Contents Milpitas City Council Meeting April 15, 2003 6:30 p.m. Closed Session

7:30 p.m. Closed Session 7:30 p.m. Public Business 455 E. Calaveras Boulevard

- I. **ROLL CALL (6:30 p.m.)**
- II. ADJOURN TO CLOSED SESSION

#### CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 86-05-021, 86-05-009, and 86-11-013

Negotiating Party: Thomas J. Wilson

Under Negotiation: Terms and Conditions for Acquisition/Lease of Property

- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:30 p.m.)
- V. APPROVAL OF MINUTES: April 1, 2003
- VI. SCHEDULE OF MEETINGS
- VII. PRESENTATIONS
  - Recognition of visiting dignitaries from Dagupan City, Philippines

#### **Presentation**

• Santa Clara County Cities Housing Trust -- by Carl Guardino

#### **Proclamations**

- Public Safety Telecommunications Week, April 13-19, 2003
- Community Development Block Grant Program Week, April 21-27, 2003
- Arbor Day

**Commendation**: Eagle Scout–Ricky Davis

#### VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- IX. ANNOUNCEMENTS
- X. APPROVAL OF AGENDA
- XI. CONSENT CALENDAR (Items with Asterisks)
- XII. PUBLIC HEARING
  - 1. Approve Community Development Block Grant Funding for FY 2003-04 and Adopt the One-Year Action Plan (Staff Contact: Felix Reliford, 586-3071 and Gloria Anaya, 586-3075)
- XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. CALL TO ORDER BY THE MAYOR
- RA2. ROLL CALL
- RA3. APPROVAL OF MINUTES: April 1, 2003
- RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)
- RA5. Review Project Closeout Progress; Approve Contract Change Orders; Approve Appropriation; Civic Center (Project No. 8026) (Staff Contact: Greg Armendariz, 586-3220)
- RA6. Approve the Report to the City Council and Call for a Joint Public Hearing Related to the Proposed Eighth Amendment for the Milpitas Redevelopment Project Area No. 1 (Staff Contact: Blair King, 586-3060)
- RA7. Review Draft 2003-2008 Capital Improvement Program (CIP) Report (Staff Contact: Mike McNeely, 586-3301)
- \*RA8. Approve Amendment One (1) of the Agreement Between Keyser Marston Associates and the Redevelopment Agency in the Amount of \$14,999.00 for a Valuation Analysis of Assessor Parcel Numbers 86-05-021, 86-05-009, and 86-11-013 (Staff Contact: Blair King, 586-3060)
- \*RA9. Amendment to Agreement for Audit Services With Maze & Associates Accountancy Corporation (Staff Contact: Jane Corpus, 586-3125)
- \*RA10. Interim Senior Center: RDA Appropriation (Staff Contact: Mark Rogge, 586-3257)
- RA11. AGENCY ADJOURNMENT

#### XIV. REPORTS OF OFFICERS AND BOARDS

#### City Council

- 2. Approve Appointments to the Economic Development Commission: Mayor Esteves
- 3. Status Report on Terrace Gardens: Councilmember Polanski
- 4. Consider Canceling the July 20, 2004, City Council Meeting and Consider Starting City Council Meetings at 7:00 P.M.: Councilmember Polanski

#### Sister Cities Commission

5. Request for Sister City Relationship and Approval of Memorandum of Understanding: Dagupan City, Philippines (Staff Contact: Darryl Wong, 586-3345)

#### XV. UNFINISHED BUSINESS

- 6. Approve Utility Financial Master Plan (Project No. 7096) (Staff Contact: Darryl Wong, 586-3345)
- \*7. Appoint Representative to Bay Area Water Supply and Conservation Agency (Staff Contact: Darryl Wong, 586-3345)

#### XVI. NEW BUSINESS

\*8. Approve Encroachment Permit Agreement with Looking Glass Networks, Inc., a Delaware Corporation (Project No. 3158) (Staff Contact: Mehdi Khaila, 586-3328)

#### XVII. ORDINANCE

\*9. Adopt Ordinance No. 133.6, Adding Section 7.01 to Chapter 9, Title V of the Milpitas Municipal Code Related to Regulations for the Use of the City Dog Park Located at Ed Levin Park (Staff Contact: Blair King, 586-3060)

#### XVIII. RESOLUTIONS

- \*10. Adopt Resolution Authorizing Joint Redevelopment and City Council Public Hearing for the Eighth Amendment to Redevelopment Plan No. 1 (Staff Contact: Blair King, 586-3060)
- \*11. Adopt a Resolution to Endorse the National Housing Trust Fund (NHTF) Legislation (HR1102) to the California Congressional Delegation (Staff Contact: Felix Reliford, 586-3071)
- \*12. Adopt Resolution Granting Final Acceptance: Overflow Sewer Near Hillview Dr. (Project No. 6092) (Staff Contact: Steve Erickson, 586-3317)
- \*13. Adopt Resolution Granting Final Acceptance: SBWR Infill Pipeline Tasman/Barber Segment (Project No. 6093) (Staff Contact: Steve Erickson, 586-3317)
- \*14. Adopt Resolution Objecting to the Tax Sale of APN 088-50-090 by the County of Santa Clara (Staff Contact: Steve Mattas, 586-3040)

#### XIX. BIDS AND CONTRACTS

- \*15. Approve Agreement Amendment: Luhdorff & Scalmanini, Well Upgrade Program, (Project No. 7076) (Staff Contact: Steve Erickson, 586-3317)
- \*16. Award Construction Contract: Manor Pump Station Improvements (Project Nos. 3385 and 3396) (Staff Contact: Mehdi Khaila, 586-3328)
- \*17. Approve Contract with Patricia Elliot and Purchase Order for \$10,000 for Personnel Investigation Services (Staff Contact: Cherie Rosenquist, 586-3090)
- \*18. Approve Plans and Specifications: Cathodic Protection System Repair (Project No. 7050) (Staff Contact: Steve Erickson, 586-3317)
- \*19. Authorize Purchase of Motorola Radio Base Station Equipment (Project No. 8125) (Staff Contact: Lou Zenzen, 586-3161)

#### XX. CLAIMS AND DEMANDS

- \*20. Approve Payment Requests: Miscellaneous Vendors/Contractors (Staff Contact: Lou Zenzen, 586-3161)
- \*21. Approve Payroll Register (Staff Contact: Emma Karlen, 586-3145)

#### XXI. ADJOURNMENT

NEXT REGULARLY SCHEDULED COUNCIL MEETING TUESDAY, MAY 6, 2003, AT 7:30 P.M.

#### **CITY OF MILPITAS**

Summary of Contents Milpitas City Council Meeting April 15, 2003 6:30 p.m. Closed Session

7:30 p.m. Public Business 455 E. Calaveras Boulevard (Mailing Address)

#### XII. PUBLIC HEARING

1. APPROVE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR FY 2003-04 AND ADOPT THE ONE-YEAR ACTION PLAN (STAFF CONTACT: FELIX RELIFORD, 586-3071 AND GLORIA ANAYA, 586-3075)

**BACKGROUND:** The purpose of this public hearing is to establish funding levels and uses of the Community Development Block Grant (CDBG) Program for fiscal year 2003-04 and the adoption of the One-year Action Plan which describes the eligible programs, projects and activities to be undertaken with CDBG funds in the next fiscal year. An application workbook was previously distributed to the Council that contains a memo on the general guidelines regarding the use of CDBG funds and a copy of each eligible application received.

#### **CDBG Program**

The City's estimated grant for FY 2003-04 is approximately \$726,000. An additional \$219,264.57 (\$202,915.57 from unused program income generated by the City's Housing Rehabilitation Loan Program and 1999 window bars program funds and \$16,349 represents 15% of prior year program income) for a total of \$945,264.57 available for FY 2003-04. Thirty-one (31) applications were received for CDBG funding. However, The O Foundation Commercial Rehabilitation application was withdrawn by the applicant. There are 23 applications requesting funding for Public Services and a total of \$125,249 is available to fund this category. A total of \$674,815.57 is available to fund Non-Public Services.

At its meeting on March 5, 2003, the Community Advisory Commission (CAC) held a public hearing and reviewed the CDBG applications. The CAC has recommended \$806,393.57 in total funding, including \$131,578 (\$6,329 coming from CDBG General Program Administration funds to cover \$15,000 of Project Sentinel's Fair Housing Activities) for Public Services and \$674,815.57 for Non-Public Services. The remaining \$138,871 of the grant is committed for program administration.

Included in the Council's agenda packets is the March 5, 2003, CAC minutes including their funding recommendations. All applicants have been notified of the City Council public hearing and have been advised to be present to answer any questions the Council might have.

#### **Action Plan**

The City of Milpitas One-Year Action Plan describes the eligible programs, projects and activities to be undertaken with the funds expected t be made available during the program year (2003-04) and their relationship to the priority housing, homeless, and community development needs. The Action Plan is an addition to the Five-year Consolidated Plan required and previously approved by the Department of Housing and Urban Development (HUD) for continued funding as an entitlement city.

In summary, the Annual Action Plan outlines the resources (Federal, State, and local) activities to be undertaken, strategic plan; citizen participation, etc. as they relate to the Consolidated Plan long range goals and objectives. As required by HUD, the Action Plan has been advertised for public review and comments for 30 days (March 4, through April 4, 2003).

Copies of the Action Plan were sent to 30 public service providers, copies were placed at City Hall and the Public Library. Any public comments received will be incorporated into the Action

Plan and forwarded to HUD by May 15, 2003. Included in the Council's agenda packet is a draft copy of the One-Year Action Plan.

#### **RECOMMENDATION:**

- 1. Close the public hearing on the CDBG funding process and the Action Plan.
- 2. Approve the CAC recommendations for CDBG funding of FY 2003-04 as submitted.
- 3. Adopt the One-Year Action Plan.

#### XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. CALL TO ORDER BY THE MAYOR
- RA2. ROLL CALL
- **RA3.** APPROVAL OF MINUTES: April 1, 2003
- RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)
- RA5. REVIEW PROJECT CLOSEOUT PROGRESS; APPROVE CONTRACT CHANGE ORDERS; APPROVE APPROPRIATION; CIVIC CENTER (PROJECT NO. 8026) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220)

**BACKGROUND:** One additional contract change order for \$128,224 and two purchase orders for \$5,132, are recommended for approval at this time. The contract change order is for settlement of the last contractor claim. Staff has analyzed the claim backup documentation submitted by the contractor and have validated the contractor's assertion that there was additional work scope not compensated for in the original contract. All other issues in the contractor's original claim, such as delays, have been resolved and settled at no additional cost to the City. Therefore, this claim settlement pays for "added value" to the project. A contract change order summary, providing additional information on the contract change order and purchase order is included in the Council's agenda packet.

The Subcommittee and staff recommend a new appropriation of \$45,000, for the third floor improvements. On February 4, 2003, Council meeting approved the 3<sup>rd</sup> floor improvements with a \$45,000 budget, however a new appropriation was not addressed at that time. Third floor improvements will be tracked and reported separately. This is consistent with the previous approval of the fourth floor improvements. A staff presentation will be made at the council meeting, on the project close out progress.

Lastly, additional cost recoveries are being realized as the City closes out the remaining multiple prime construction and service contracts. The reason for this is primarily due to the City's ongoing efforts to control costs (i.e. as the blueprinting, and tracking actual contractor time and materials.) These purchase order cost savings will be returned to the project contingency. An update report on the Civic Center budget will be presented at the Council meeting by Project staff.

#### **RECOMMENDATION:**

- 1. Approve contract change orders included in the contract change order summary sheet.
- 2. Appropriate \$45,000 for the City Hall Third Floor Improvements from the RDA Tax Increment.
- 3. Note receipt and file project close out progress report.

# RA6. APPROVE THE REPORT TO THE CITY COUNCIL AND CALL FOR A JOINT PUBLIC HEARING RELATED TO THE PROPOSED EIGHTH AMENDMENT FOR THE MILPITAS REDEVELOPMENT PROJECT AREA NO. 1 (STAFF CONTACT: BLAIR KING, 586-3060)

**BACKGROUND:** The Agency is in the process of adopting the Eighth Amendment to the Milpitas Redevelopment Project Area No. 1. The primary purposes of the Eighth Amendment are to: (1) add the remaining Midtown area ("Added Area") to the area included within the Existing Project Area; (2) increase the tax increment limit in the Existing Project Area from \$502 million to \$1.026 billion and establish a tax increment limit for the Added Area of \$1.373 billion, which will result in a combined tax increment limit of \$2.4 billion for the Existing Project Area and the Added Area; (3) increase the bond debt limit in the Exiting Project area and Added Area from \$75 million to \$498 million; and (4) revise and update various text provisions within the Existing Plan to conform to the requirements of State Community Redevelopment Law (CRL).

Pursuant to Health and Safety Code Section 33352, the legally required report to the City Council for the Eighth Amendment has been prepared and is ready for submission by the Agency to the Council. The purpose of this report is to provide the legally required information, documentation, and evidence required by the law when a proposed amendment is submitted by the Agency to the City Council. This documentation is required to allow the City Council to make the various required findings when the Eighth Amendment is adopted.

The Report to the City Council provides, among other things, documentation on the nature and extent of the conditions that justify the use of redevelopment that remains within the Existing Project Area and the conditions that exist within the Added Area and how these conditions will be corrected through the use of redevelopment. The Report to the City Council also describes how the redevelopment of the Added Area and the Existing Area will be or continue to be financed so that economic feasibility can be demonstrated. Additionally, the Report to the City Council includes a description of the relationship of the increase in tax increment to the funding of the redevelopment projects and programs proposed to alleviate remaining blight conditions in the Existing Project Area.

Pursuant to Heath and Safety Code Sections 33349, 33355, and 33361, the Agency, in cooperation with the City Council, is required to schedule and notify affected taxing entities, property and business owners, tenants and residents within the Existing Project Area and the Added Area, and then hold a Joint Public Hearing with the City Council with respect to the Eighth Amendment and related items, prior to adopting the proposed Eighth Amendment. The date for the Joint Public Hearing is proposed to be the Council Meeting on Tuesday, May 20<sup>th</sup>. The Agency will publish a notice of hearing once a week for five (5) consecutive weeks and mail a notice to all residents, property owners, business owners, and tenants within the affected area as well as all taxing entities.

**RECOMMENDATION:** Adopt a resolution approving the report to the City Council and authorize a Joint Public Hearing and related actions.

### RA7. REVIEW DRAFT 2003-2008 CAPITAL IMPROVEMENT PROGRAM (CIP) REPORT (STAFF CONTACT: MIKE MCNEELY, 586-3301)

**BACKGROUND:** A draft CIP document has been prepared. Based upon the direction received from the Council, a final preliminary CIP will then be presented to the Council for approval at the May 13, 2003, budget session.

The projects are arranged into six main categories: Community Improvements, Parks, Streets, Water, Sewer, and Storm Drain. The document includes a summary by categories and individual proposed project descriptions.

Only projects in the first year (2003-04) of the five-year CIP will be proposed for funding in the upcoming budget. Expenditures through the end of 2003-04 for CIP's are projected to exceed

\$30.0 million. This year staff has made a substantial effort to reprioritize many projects and the CIP incorporates the recommendation to de-program funds for these projects. These funds would then be held in reserve for the City Council's highest priority projects. The projects listed in years after 2003-04 are shown for planning purposes and do not receive expenditure authority until approved by the Council.

**RECOMMENDATION**: Provide staff with direction and comments on the 2003-2008 CIP.

\*RA8. APPROVE AMENDMENT ONE (1) OF THE AGREEMENT BETWEEN KEYSER MARSTON ASSOCIATES AND THE REDEVELOPMENT AGENCY IN THE AMOUNT OF \$14,999.00 FOR A VALUATION ANALYSIS OF ASSESSOR PARCEL NUMBERS 86-05-021, 86-05-009, AND 86-11-013 (STAFF CONTACT: BLAIR KING, 586-3060)

**BACKGROUND:** Previously, staff under the City Manager/Executive Director's signature authority, entered into a Professional Services Agreement with Keyser Marston Associates of San Francisco, California, to conduct a market valuation of the above referenced property. Based upon the complexity of the task and the limited time for its completion, it is now apparent that the previously agreed upon compensation is insufficient to complete the task. It is recommended that the Agency approve amendment one (1) to the agreement with Keyser Marston Associates in order to increase the compensation to a total sum of \$14,999.

**RECOMMENDATION**: Authorize the City Manager/Executive Director to execute Amendment 1 to the Agreement Between Milpitas Redevelopment Agency and Keyser Marston Associates in the amount of \$14,999.00 for a valuation analysis of Assessor Parcel Numbers 86-05-021, 86-05-009, and 86-11-013, subject to approval as to form by the City Attorney.

## \*RA9. AMENDMENT TO AGREEMENT FOR AUDIT SERVICES WITH MAZE & ASSOCIATES ACCOUNTANCY CORPORATION (STAFF CONTACT: JANE CORPUS, 586-3125)

**BACKGROUND:** The City entered into a contract for audit services with Maze and Associates, a Certified Public Accounting firm, on May 16, 2000. The scope of the service includes issuance of audit reports on the financial statements of the City, Redevelopment Agency, Milpitas Public Financing Authority, Single Audit, and Transportation Development Act. The contract covers the audits for fiscal years 1999/2000 through 2001/02 with an option to extend the contract to include fiscal years 2002/03 and 2003/04 subject to the annual review and recommendation of the Director of Finance.

Maze & Associates has provided the City with an engagement letter to conduct audit services for fiscal year 2002/03 for a fee not to exceed \$84,152. The fee is based on the 2001/02 audit fees adjusted by the Bay Area Consumer Price Index. There are sufficient funds available from the 2002/03 budget.

**RECOMMENDATION:** Staff recommends that the City Council authorize the City Manager to execute an amendment to extend the contract with Maze & Associates Accountancy Corporation for fiscal year 2002/03 for \$84,152, subject to approval as to form by the City Attorney.

### \*RA10. INTERIM SENIOR CENTER: RDA APPROPRIATION (STAFF CONTACT: MARK ROGGE, 586-3257)

**BACKGROUND:** On February 4, 2003, the City Council approved the Senior Facilities Subcommittee recommendation for the installation of modulars and other improvements at the Sal Cracolice site at 540 South Abel Street.

Staff reported that the estimate for the improvements was \$573,000 to be funded with a mix of CDBG (Community Development Block Grant) and RDA (Redevelopment Agency) funds.

After the CDBG hearing process the CAC made a recommendation to the City Council to allocate \$431,815.57 of CDBG funds to the Interim Senior Center Project. The Council is scheduled to allocate the final CDBG funding at the April 15<sup>th</sup> meeting. This allocation will not be available until after July 1, 2003. Staff recommends appropriating \$141,584.43 at this time from unallocated RDA funds to complete the funding for this project.

Staff also recommends assigning a new Capital Improvement Project number to track this project for accounting purposes. Creation of the new CIP and initiating a portion of the funding at this time will allow staff to make appropriate progress on this project before the beginning of the new fiscal year. The majority of the cost of this project is expected to occur after July 1<sup>st</sup>, when the CDBG funds will be available.

#### **RECOMMENDATION:**

- 1. Establish new Capital Project No. CP 8151 Interim Senior Center with a total budget of \$573,000 with \$431,815.57 from CDBG (July 1, 2003) and the rest from RDA.
- 2. Appropriate \$141,584.43 from unallocated RDA funds to the Interim Senior Center project.

#### RA11. AGENCY ADJOURNMENT

#### XIV. REPORTS OF OFFICERS AND BOARDS

#### CITY COUNCIL

### 2. APPROVE APPOINTMENTS TO THE ECONOMIC DEVELOPMENT COMMISSION: MAYOR ESTEVES

**BACKGROUND**: At the February 18, 2003, City Council meeting, the Council approved the formation of a nine member (seven members and two alternate members) Economic Development Commission proposed by Mayor Esteves. The purpose of the Commission is to advise the City Council on business issues and to make recommendations on the design, development, and implementation of a comprehensive economic development program for the City of Milpitas.

A request for applications was advertised in the Milpitas Post, through letters and flyers, and on the City's web site and 13 applications were submitted. In addition, the School District and the Chamber of Commerce have provided the names of their representatives. Mayor Esteves is recommending the following individuals for appointment to the Commission.

**Technology** Dhaval Brahmbhatt Commercial Real Estate Vicente Songcayawon Retail Business Joseph Gigantino, Jr. Residential Real Estate Ray Maglalang Diane McDonough Hotels/Accommodations Restaurants Michael Pham Resident **Donald Peoples** School District Karl Black Chamber of Commerce Frank DeSmidt Alternate No. 1 Christie Gammon Alternate No. 2 Tuong Nguyen

Copies of all applications received are included in the Council's agenda packets.

**RECOMMENDATION**: Approve the Mayor's recommendations for appointments to the Economic Development Commission.

#### 3. STATUS REPORT ON TERRACE GARDENS: COUNCILMEMBER POLANSKI

**BACKGROUND**: At its March 27, 2003, Board meeting, the Terrace Garden Board of Directors reviewed a report by the John Stewart Company, the property management firm for Terrace

Gardens, which presented a survey of rental rates of similar senior housing projects and a survey of meal costs. Councilmember Polanski will present a status report and update on the meal program at Terrace Gardens. Included in the Council's agenda packet are copies of the survey reports.

**RECOMMENDATION**: Note receipt and file.

## 4. CONSIDER CANCELING THE JULY 20, 2004, CITY COUNCIL MEETING AND CONSIDER STARTING CITY COUNCIL MEETINGS AT 7:00 P.M.: COUNCILMEMBER POLANSKI

**BACKGROUND**: At the April 1, 2003, City Council meeting, the City Council approved canceling the July 15, 2003, Council meeting for a summer break. During the discussion, Councilmember Polanski suggested the Council also consider canceling a meeting in July 2004 so that it could be noted on the City Calendar that will go to print this fall. Since the July 2004 meeting wasn't included on the posted agenda, the City Attorney recommended that the item come back to the Council.

The City Council typically cancels one City Council meeting in July to allow for a summer vacation period. In the past several years, the second meeting in July has been canceled due to the fact that Councilmembers generally do not schedule their vacations until after the City's July 4<sup>th</sup> activities. The second Tuesday in July 2004 is July 20.

At the same Council meeting, Councilmember Polanski also raised the issue of starting Council meetings at 7:00 p.m. instead of 7:30 p.m. Currently a Council Closed Session is scheduled for 6:30 p.m. to 7:30 p.m. and the public portion of the meeting begins at 7:30 p.m. The Civic Center Subcommittee has also been meeting from 5:30 p.m. to 6:30 p.m. on the first and third Tuesday each month.

#### **RECOMMENDATION:**

- 1. Cancel the July 20, 2004, City Council meeting.
- 2. Consider changing the starting time for City Council meetings and provide direction to staff.

#### SISTER CITIES COMMISSION

5. REQUEST FOR SISTER CITY RELATIONSHIP AND APPROVAL OF MEMORANDUM OF UNDERSTANDING: DAGUPAN CITY, PHILIPPINES (STAFF CONTACT: DARRYL WONG, 586-3345)

**BACKGROUND:** The Milpitas Sister Cities Commission received an application request and presentation to initiate a sister city relationship from the Dagupan City Association at its February 27 and March 27, 2003 meetings. Dagupan City is located in the northwestern Philippines, on the island of Luzon, Pangasinan Province, an approximate three-hour drive from Manila, and has a resident population of 134,000. Ten representatives from the Dagupan City Association, including five Milpitas residents, attended the commission meetings. The Dagupan City Association is a local group representing the cultural interests of Dagupan City, Philippines. The commission agreed with the Dagupan City Association's request to focus the relationship on information sharing about municipal services and encouraging goodwill. At the commission's request, an initial relationship limited to two years with an agreement to explore expanding the relationship to include cultural exchanges is proposed. A progress report to Council would be required to evaluate recommending the relationship beyond the initial two-year time frame. Included in the agenda packet is a final draft of a Memorandum of Understanding to establish the relationship, which has been recommended unanimously by the Sister Cities Commission, the Request for Sister City form, a letter demonstrating community support from the Dagupan City Association, and a January 6, 2003, Dagupan City resolution declaring intent to forge a sister city relationship with the City of Milpitas.

**RECOMMENDATION:** Approve the Sister Cities Commission's recommendation to enter into a two-year sister city relationship with Dagupan City, Philippines. Authorize a signing of the Memorandum of Understanding with Mayor Esteves and an elected official representing Dagupan City.

#### XV. UNFINISHED BUSINESS

6. APPROVE UTILITY FINANCIAL MASTER PLAN (PROJECT NO. 7096) (STAFF CONTACT: DARRYL WONG, 586-3345)

**BACKGROUND**: At its February 19, 2002, meeting, the Council approved a consultant contract with Bartle Wells Associates to develop a comprehensive Utility Financial Master Plan for the water, wastewater, and storm water programs. The product would be a 20-year plan for financing utilities considering expenses such as wholesale charges, operation and maintenance, capital improvements, and utility replacement costs while maintaining a prudent fund balance. A Citizens' Task Force met monthly during past nine months to assist in the plan development. Staff has also met with the Utility Rate Subcommittee to review the findings and recommendations.

In order to meet the projected city and large wholesale expenses, increases in rates and adjustment of connection fees will be necessary. The evaluation determined that funding of City expenses can be achieved at a stabilized annual rate increase of between approximately \$1.00 per month for water and for sewer bills of average single family users. Wholesale costs, over which the city has no direct control, would be added to result in the total increases.

The plan also evaluated establishment of a storm drain fee to recover operating, maintenance, and regulatory program costs for the City storm drain collection, pump station and discharge system. It is recommended that a detailed storm drain enterprise program be developed over the coming year for consideration by the City Council.

A copy of the draft plan and a staff memorandum summary of findings are included in the Council packets.

#### **RECOMMENDATION:**

- 1. Adopt the Utility Financial Master Plan.
- 2. Direct staff to finalize a storm drain fee program with the City Attorney's office for future consideration.

### \*7. APPOINT REPRESENTATIVE TO BAY AREA WATER SUPPLY AND CONSERVATION AGENCY (STAFF CONTACT: DARRYL WONG, 586-3345)

**BACKGROUND:** At the April 1, 2003, meeting, the Council adopted a resolution to form and become a member of the Bay Area Water Supply and Conservation Agency (Agency). This request is to appoint Councilmember Livengood as the representative to the Agency. The Agency, authorized under AB 2058, will plan and acquire supplemental water supplies, encourage conservation and regional recycled water use, and plan/finance new facilities for collection and transmission of water.

**RECOMMENDATION:** Appoint Councilmember Livengood to the Bay Area Water Supply and Conservation Agency.

#### XVI. NEW BUSINESS

\*8. APPROVE ENCROACHMENT PERMIT AGREEMENT WITH LOOKING GLASS NETWORKS, INC., A DELAWARE CORPORATION (PROJECT NO. 3158) (STAFF CONTACT: MEHDI KHAILA, 586-3328)

**BACKGROUND**: Looking Glass Networks is regulated by the State Public Utilities Commission and is requesting an Encroachment Permit Agreement to install fiber optic cable and conduits within the City's right-of-way and easements. The proposed conduits are generally within Montague Expressway from the intersection of Seely Avenue in the City of San Jose to the intersection of Trade Zone Boulevard in the City of Milpitas, continuing easterly on Trade Zone Boulevard to the intersection of Lundy Avenue, connecting to existing facilities.

**RECOMMENDATION:** Authorize the City Manager to execute the Encroachment Permit Agreement, subject to the approval by the City Attorney as to form.

#### XVII. ORDINANCE

\*9. ADOPT ORDINANCE NO. 133.6, ADDING SECTION 7.01 TO CHAPTER 9, TITLE V OF THE MILPITAS MUNICIPAL CODE RELATED TO REGULATIONS FOR THE USE OF THE CITY DOG PARK LOCATED AT ED LEVIN PARK (STAFF CONTACT: BLAIR KING, 586-3060)

**BACKGROUND**: On April 1, 2003, the City Council introduced Ordinance No. 133.6, adding Section 7.01 to Chapter 9, Title V, of the Milpitas Municipal Code related to regulations for use of the City Dog Park located at Ed Levin Park. The lease agreement between the City and County for the Dog Park requires that the City adopt specific rules of conduct for this specialized recreational facility. The Police Department and County Park Rangers requested that the Dog Park rules be adopted by ordinance. Upon the ordinance's introduction, the Council created fourteen (14) regulations. These fourteen rules are reflected in the ordinance presented.

#### **RECOMMENDATION:**

- 1. Waive full reading of the ordinance.
- 2. Adopt Ordinance No. 133.6, Adding Section 7.01 to Chapter 9, Title V of the Milpitas Municipal Code Related to Regulations for the use of the City Dog Park located at Ed Levin Park.

#### XVIII. RESOLUTIONS

\*10. ADOPT RESOLUTION AUTHORIZATING JOINT REDEVELOPMENT AND CITY COUNCIL PUBLIC HEARING FOR THE EIGHTH AMENDMENT TO REDEVELOPMENT PLAN NO. 1 (STAFF CONTACT: BLAIR KING, 586-3060)

**BACKGROUND:** The Agency is in the process of adopting the Eighth Amendment to the Milpitas Redevelopment Project Area No. 1. The Redevelopment Agency has forwarded a Report to the City Council and asked to conduct a Public Hearing with regard to the Eighth Amendment. Pursuant to Health and Safety Code Section 33349, 33355, and 33361, the City Council, in cooperation with the Redevelopment Agency, is required to schedule and notify affected taxing entities, property and business owners, tenants, and residents within the Existing Project Area and Added Area, and then hold a Joint Public Hearing with the Agency with respect to the Eight Amendment and related items, prior to adopting the proposed Eighth Amendment.

Staff is requesting Council authorization to publish a notice of the Joint Public Hearing, for the duration of time required by the law, five (5) consecutive weeks, and to notify by mail the affected taxing agencies, property owners, residents, businesses and tenants.

**RECOMMENDATION:** Adopt the resolution authorizing the Joint Public Hearing and related actions.

\*11. ADOPT RESOLUTION TO ENDORSE THE NATIONAL HOUSING TRUST FUND (NHTF) LEGISLATION (HR1102) TO THE CALIFORNIA CONGRESSIONAL DELEGATION (STAFF CONTACT: FELIX RELIFORD, 586-3071)

**BACKGROUND**: Chris Block, on behalf of Silicon Valley Citizens for Affordable Housing (SVCAH) is requesting that the cities in Santa Clara County endorse the National Housing Trust Fund (NHTF) legislation (HR1102) that is currently working its way through the United States Congress.

The HNTF will use existing Federal Housing Assistance surpluses to build, rehabilitate, and preserve at least 1.5 million affordable rental units over a ten-year period. The emphasis will be on the rental units for families earning below 30% of the Area Median Income, but up to 25% of these funds can be used to create opportunities for home ownership. The Area Median Income in Santa Clara County is \$105,500 for a family of four. The NHTF is a practical solution that will continue to assist the cities in Santa Clara County address the need for affordable housing.

Included in the Council's agenda packet are a copy of the resolution and the letter to support the legislation from SVCAH.

**RECOMMENDATION:** Adopt resolution to support the endorsement of the National Housing Trust Fund legislation for affordable housing opportunities in Santa Clara County.

\*12. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE: OVERFLOW SEWER NEAR HILLVIEW DR. (PROJECT NO. 6092) (STAFF CONTACT: STEVE ERICKSON, 586-3317)

**BACKGROUND:** This project which was initially accepted on April 1, 2002, has passed the one-year warranty period. A final inspection has been made and the public improvements which include the installation of approximately 500 LF of a new 12-inch sanitary sewer pipe are satisfactory. Therefore, a final acceptance may be granted and the contractor's bond may be released.

**RECOMMENDATION:** Adopt resolution granting final acceptance and release of the bond.

\*13. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE: SBWR INFILL PIPELINE TASMAN/BARBER SEGMENT (PROJECT NO. 6093) (STAFF CONTACT: STEVE ERICKSON, 586-3317)

**BACKGROUND:** This project which was initially accepted on February 5, 2002, has passed the one-year warranty period. A final inspection has been made and the public improvements which include installation of recycled water pipelines along Tasman Drive, McCarthy Boulevard, Alder Drive, and Barber Lane are satisfactory. Therefore, a final acceptance may be granted and the contractor's bond may be released.

**RECOMMENDATION**: Adopt resolution granting final acceptance and release of the bond.

\*14. ADOPT RESOLUTION OBJECTING TO THE TAX SALE OF APN 088-50-090 BY THE COUNTY OF SANTA CLARA (STAFF CONTACT: STEVE MATTAS, 586-3040)

**BACKGROUND**: The City was notified on March 18, 2003 of certain properties located in the City of Milpitas that have become subject to sale at the Tax Collector's Public Auction. Unless redeemed beforehand, these properties are subject to a sale by public auction on May 16, 2003.

One of the parcels subject to sale at the public auction is APN 088-50-090. This parcel is a private park located in the City's PUD No. 57 – Stonegate, as approved by the City Council on March 6, 1990. This private open space parcel was required as a condition of approval of the development. City staff has indicated a desire to have this property remain as a private park.

If the City wishes to object to the sale of APN 088-50-090, it must file an objection with the County by April 18, 2003. The City is required by law to object by Resolution of the City Council.

**RECOMMENDATION**: Adopt Resolution objecting to the sale of APN 088-50-090 by the County of Santa Clara at the Tax Collector's Public Auction.

#### XIX. BIDS AND CONTRACTS

\*15. APPROVE AGREEMENT AMENDMENT: LUHDORFF & SCALMANINI, WELL UPGRADE PROGRAM, (PROJECT NO. 7076) (STAFF CONTACT: STEVE ERICKSON, 586-3317)

**BACKGROUND:** This project is included in the current five-year Capital Improvement Program (CIP) and provides for the installation of an emergency backup water well including pump station, generator, and chlorination equipment. The project is two phases, with phase I being the well drilling and testing. Phase I was awarded for construction on April 1, 2003, and well drilling work is anticipated to start by May 2003.

Well drilling construction is a specialized field. It is therefore recommended that the existing design services agreement with Luhdorff & Scalmanini is amended to allow the consultant to provide construction inspection, testing and administration services. Luhdorff & Scalmanini has proposed to perform these additional services for a not to exceed amount of \$12,000, which is considered reasonable.

**RECOMMENDATION**: Authorize the City Manager to enter into the agreement amendment with Luhdorff & Scalmanini in the amount of \$12,000 subject to approval as to form by the City Attorney.

\*16. AWARD CONSTRUCTION CONTRACT: MANOR PUMP STATION IMPROVEMENTS (PROJECT NO. 3385 AND 3396) (STAFF CONTACT: MEHDI KHAILA, 586-3328)

**BACKGROUND**: This project is included in the approved Capital Improvement Program. It is funded primarily by City Redevelopment Funds, which are part of the City's contribution to the I-880/Route 237 Interchange. Upgrade of this facility is necessary to accommodate flows from the interchange. The improvements include replacing propellers in the existing two pumps, adding a third pump, and a backup generator.

The project was advertised and sealed bids were opened on April 9, 2003. The consulting engineer's estimate is \$300,300. The bids ranged from 256,500 to 421,225. There are sufficient funds in the projects to award this contract.

**RECOMMENDATION:** Award the contract to D.W. Nicholson Corporation in the amount of \$256,500.

\*17. APPROVE CONTRACT WITH PATRICIA ELLIOT AND PURCHASE ORDER FOR \$10,000 FOR PERSONNEL INVESTIGATION SERVICES (STAFF CONTACT: CHERIE ROSENQUIST, 586-3090)

**BACKGROUND**: The City uses consultant services to conduct personnel investigations. This contract would be for consultant services during this fiscal year. Ms. Elliot is an attorney experienced in personnel investigations. Funding is available for this contract in the Human Resources Contractual Services Fund.

**RECOMMENDATION**: Approve contract with Patricia Elliot for personnel investigation services, subject to approval as to form by the City Attorney, and approve a purchase order for Patricia Elliot in the amount of \$10,000.

\*18. APPROVE PLANS AND SPECIFICATIONS: CATHODIC PROTECTION SYSTEM REPAIR (PROJECT NO. 7050) (STAFF CONTACT: JOE EZEOKEKE, 586-3316)

**BACKGROUND:** Plans and specifications for the Cathodic Protection System Repair project have been prepared. The work involves the installation and testing of new and existing cathodic protection systems on pipelines in various parts of the City. The estimated construction cost is \$1,530,000, and it is anticipated that approximately \$250,000 will be needed to award the construction of this project after bids are opened. At that time, staff will propose budget adjustments by transfers from lower priority projects and/or appropriations from water and sewer fund balances.

A copy of the project title sheet is included in the Council's agenda packets. Plans and specifications are available for review in the office of the City Engineer.

#### **RECOMMENDATION:**

- 1. Approve plans and specifications
- 2. Authorize advertising for bid proposals.

### \*19. AUTHORIZE PURCHASE OF MOTOROLA RADIO BASE STATION EQUIPMENT (PROJECT NO. 8125) (STAFF CONTACT: LOU ZENZEN, 586-3161)

**BACKGROUND**: The Police Department is requesting authorization to purchase three new UHF base station systems, two voting receivers and one voter/comparator radio equipment as a sole source from the manufacturer, Motorola, Inc. These new systems will be replacing existing equipment that is between 8 and 12 years old and are showing signs of wear and tear. Motorola, Inc. only sells this type of equipment direct to public safety departments and is not offered through their local distributors. This sole source purchase of this equipment is sanctioned in section I-2-5.03-4 of the Milpitas Municipal Code.

Motorola has provided a cost of \$69,862.47 for the purchase of the equipment and there are sufficient funds available in the Radio Replacement Plan budget (Project No. 8125) for the purchase of the base station equipment.

**RECOMMENDATION:** Authorize the sole source purchase of the base station radio equipment from Motorola, Inc., in the amount of \$69,862.47.

#### XX. CLAIMS AND DEMANDS

### \*20. APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS (STAFF CONTACT: LOU ZENZEN, 586-3161)

**BACKGROUND:** In accordance with direction given by City Council at its August 15, 1995, meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

- \$9,015.00 to Wattis Construction Co. for the emergency asphalt repair due to street failure at Milpitas Blvd. and Beresford Ct. for the Street Maintenance Division. (Funds are available from the Pavement Improvement Program project (Project No. 4182) for this emergency repair.)
- 2. \$9,475.00 to Danka Office Imaging for the print shop copy machine maintenance and copy charges for the remainder of the fiscal year for the City Clerk Division. (Funds are available from the City Clerk's operating budget for the maintenance costs.)

**RECOMMENDATION:** Approve the purchase requests.

#### \*21. APPROVE PAYROLL REGISTER (STAFF CONTACT: EMMA KARLEN, 586-3145)

**BACKGROUND**: The Payroll Register for the period ending March 3, 2003, in the amount of \$1,564,339.59 is submitted for approval.

**RECOMMENDATION:** Approve Payroll Register as submitted.

#### XXI. ADJOURNMENT

### NEXT REGULARLY SCHEDULED COUNCIL MEETING TUESDAY, MAY 6, 2003, AT 7:30 P.M.